Supreme Court, U. S.
FILED
JUN 29 1979
RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

Case No. 78-1573

JOHN JOHNSON,

Petitioner,

—v.—

STATE OF OHIO,

Respondent.

PETITIONER'S REPLY BRIEF TO RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Respondent's claim that petitioner has misconstrued the record in this case is completely without substance and is an attempt to cloud a record which amply supports the arguments presented in the petition for writ of certiorari. Petitioner has re-examined the facts set forth in his petition, particularly those to which respondent has objected, and reaffirms the correctness of his statements of fact. Indeed, it is the respondent, not the petitioner, who has sought to argue facts

which are totally unsupported by the record. [1]

Because of respondent's attempt to muddy a record which is, in fact, quite clear, petitioner has requested the Clerk of Courts for Cuyahoga County, Ohio to certify and transmit the transcript of the trial court proceedings to this Court, [2] should this Court wish, or deem it necessary, to verify the factual circumstances of this case.

Petitioner submits that, rather than detracting from petitioner's arguments, respondent's brief actually underscores the significance of this case and the importance of granting certiorari to clarify questions of broad application in the field of criminal justice.

Wherefore, petitioner respectfully requests that a writ of certiorari issue tc the Supreme Court of the State of Ohio and that, upon review, petitioner's convictions be reversed.

Respectfully submitted,

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[1] At page 9 of respondent's brief (last paragraph), respondent claims in its statement of the case that "At 10:30 - 10:45, Johnson was returned to the General Duty detectives; he had not passed the lie detector..." Nowhere in the entire record was there any mention of the results of polygraph testing. In fact, the trial court admonished against any disclosure. (3T 1420-1421)

[2] See, petitioner's request for certification and transmittal, Appendix at 1.

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FILED
COURT OF APPEALS
JUN 22 1979
GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY, OHIO

June 22, 1979

Gerald E. Fuerst
Clerk of Courts
Cuyahoga County
Justice Center
Cleveland, Ohio 44113

Attention: Al Chesnik
Clerk's Office - Court of Appeals

Re: State v. John Johnson
Common Pleas Case No. CR-23071
Court of Appeals Case No. 36618

Dear Sir:

You are hereby requested, pursuant to United States Supreme Court Rule 21(A) to certify and transmit the transcript of the proceedings in the Cuyahoga County Common Pleas Court, Case No. CR-23071, to the United States Supreme Court. This request to certify is in connection with a petition for writ of certiorari filed on behalf of John Johnson which is now pending before the United States Supreme Court, Case No. 78-1573.

The transcript should be directed to:

Office of the Clerk
Supreme Court of the United States
Washington, D.C. 20543

Very truly yours,

BERKMAN, GORDON, KANCELBAUM, LEVY and MURRAY

By: Bernard A. Berkman
Bernard A. Berkman
Counsel for John Johnson

BAB:pe

cc: James M. Cain, Assistant Prosecuting Attorney
The Honorable Michael Rodak, Clerk
United States Supreme Court